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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

In re JULIE R., et al., Persons Coming
Under Juvenile Court Law.

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

CELIA N.,

Defendant and Appellant.

B267786

(Los Angeles County
Super. Ct. No. DK12215)

APPEAL from an order of the Superior Court of Los Angeles County.
Phillip L. Soto, Judge. Affirmed in part; dismissed in part.

Nancy E. Nager, under appointment by the Court of Appeal, for
Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis, Acting Assistant
County Counsel, Aileen Wong, Deputy County Counsel, for Plaintiff and
Respondent.

Celia N. (mother) challenges the juvenile court's oral pronouncement declaring her children dependents under Welfare and Institutions Code section 300, subdivisions (a) through (j).¹ Mother also challenges the court's orders removing the children from her custody and requiring monitored visits. Respondent Los Angeles County Department of Children and Family Services (DCFS) filed a partial motion to dismiss, arguing that mother's challenges to the removal and monitored visitation orders have been rendered moot by subsequent events. Because mother does not oppose the motion, we dismiss the portion of her appeal challenging the removal and visitation orders. DCFS agrees that the juvenile court's oral declaration of dependency under section 300, subdivisions (a) through (j) was erroneous; the court should have declared the children dependents under section 300, subdivisions (a) and (b). However, the error appears to have been inadvertent and was corrected in the minute order. We therefore affirm the portion of the order properly before us on appeal.

FACTUAL AND PROCEDURAL SUMMARY

The dependency proceedings in this case arise from an incident of domestic violence between mother and Daniel E., Sr. (Daniel) at their home on July 9, 2015. The three children residing in the home were Julie R. (Julie), Daniel E., Jr. (Daniel Jr.), and Javier E. (Javier). Daniel is the father of Javier and Daniel, Jr. Juan R., who resides elsewhere, is the father of Julie.

On July 9, 2015, mother started punching Daniel during an argument. Daniel was able to block the punches and pushed her to the floor. Daniel locked himself in the bedroom, and mother started banging on the door. When he opened it, mother cut his hand with a knife causing substantial bleeding. Paramedics were summoned and bandaged his hand. Daniel also had cuts on his forearm and right ear. Daniel maintained his injuries were accidental. A DCFS social worker responded and interviewed mother, Daniel, and Julie. Mother reported that she and Daniel were involved in a

¹ Subsequent section references are to the Welfare and Institutions Code.

prior incident of domestic violence in 2012. Police officers responded and arrested mother for domestic battery and aggravated assault.

On July 14, 2015, DCFS filed a section 300 petition alleging under subdivisions (a) and (b) that mother and Daniel engaged in “violent conduct” that “endangers the children’s physical health and safety and places the children at risk of serious physical harm, damage and danger.” At the detention hearing, the juvenile court found a *prima facie* case for detaining the children from mother’s custody and ordered them released to their respective fathers. The court ordered monitored visits for mother.

At the September 9, 2015 combined jurisdiction and disposition hearing, the court sustained the petition, stating: “We’ll find the (a)(1)/(b)(1) count true and declare the children persons described by WIC 300 (a) through (j).” However, the minute order indicates the children were declared dependents under section 300, subdivisions (a) and (b). The court ordered the children removed from mother’s custody and placed in their respective fathers’ homes. Mother filed a notice of appeal.

At the six-month review hearing on March 9, 2016, the juvenile court ordered the children “to reside with parents on a ‘50/50’ basis pending mediation.” At a mediation hearing, mother and Juan agreed to joint legal custody of Julie with Julie residing primarily with mother. On April 7, 2016, the juvenile court made a home-of-parents order for Daniel, Jr. and Javier.

Mother filed her opening brief in this appeal on April 11, 2016. She argued that the juvenile court’s oral declaration of dependency under section 300, subdivisions (a) through (j) was erroneous because it exceeded the bounds of the allegations in the petition. Mother also argued there is insufficient evidence to support the juvenile court’s removal order and the court abused its discretion in requiring monitored visitation.

On June 15, 2016, DCFS filed its appellate brief, a motion to take judicial notice of postjudgment evidence regarding the joint custody agreement and home-of-parents order, and a motion for partial dismissal. DCFS agreed that the juvenile court erred when it orally declared the children dependents under section 300, subdivisions (a) through (j). DCFS also argued that mother’s challenges to the removal and visitation orders were moot in light of the fact that the children were subsequently released to

her custody. Mother replied indicating that she would not be filing an opposition to DCFS's partial motion to dismiss on mootness grounds.

DISCUSSION

The parties are in agreement regarding the dispositive issues for this appeal. They agree that the juvenile court's oral declaration of dependency under section 300, subdivisions (a) through (j) was erroneous. They also agree that the release of the children to mother's custody has rendered her challenges to the removal and monitored visitations orders moot.

First, it is clear from the record that the juvenile court judge misspoke when referencing section 300, subdivisions (c) through (j) at the jurisdiction and disposition hearing. No allegations pursuant to section 300, subdivisions (c) through (j) are present in the dependency petition. The sole allegations assert jurisdiction exists under section 300, subdivisions (a) and (b). The court's oral pronouncement also is internally inconsistent: it sustained the petition's counts under section 300, subdivisions (a) and (b), then declared the children dependents under subdivisions (a) through (j) in the same sentence. These additional findings were certainly nothing more than a misstatement by the judge. The minute order accurately reflects that the court sustained the petition under section 300, subdivisions (a) and (b) only. Under these circumstances, we find that the minute order prevails over the contrary pronouncement in the reporter's transcript. (See *In re Malik J.* (2015) 240 Cal.App.4th 896, 905 [if there is an irreconcilable conflict between the reporter's transcript and the clerk's transcript, "the modern rule is not automatic deference to the reporter's transcript, but rather adoption of the transcript due more credence under all the surrounding circumstances"].) We accordingly affirm the order finding that the children were described by section 300, subdivisions (a) and (b).

Second, mother's challenges to the juvenile court's removal and monitored visitation orders are moot. "[A]n action that originally was based on a justiciable controversy cannot be maintained on appeal if all the questions have become moot by subsequent acts or events. A reversal in such a case would be without practical effect, and the appeal will therefore be dismissed." (*In re Dani R.* (2001) 89 Cal.App.4th 402, 404, quoting 9 Witkin,

Cal. Procedure (5th ed. 2008) Appeal, § 749, p. 815.) Pursuant to a joint custody agreement with Juan, Julie is now residing primarily with mother. The court also made a home-of-parents order for Daniel Jr. and Javier. Because all children have been released to mother's custody, and she indicated that she would not oppose DCFS's partial motion to dismiss, we agree that dismissal is appropriate. Therefore, mother's challenges to the court's removal and monitored visitation orders are moot and that portion of her appeal is dismissed.

DISPOSITION

The jurisdictional order finding that the children were described by section 300, subdivisions (a) and (b) is affirmed. Mother's appeal challenging the removal and visitation orders is dismissed.

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EPSTEIN, P. J.

We concur:

MANELLA, J.

COLLINS, J.